

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

UNITED STATES OF AMERICA)	CR No.: 3:09-502-JFA
)	
v.)	ORDER
)	
LATONA DAVIS)	
)	
_____)	

This matter is before the court upon defendant’s motion for appointment of counsel to assist her in preparing a petition under 28 U.S.C. § 2255 to challenge her sentence in light of *Dorsey v. United States*, ___ U.S. ___, 132 S.Ct. 2321 (2012) and the Fair Sentencing Act of 2010. She contends that she was arrested on August 11, 2009 and sentenced on January 13, 2011 which places her in the “pipeline” for review under *Dorsey*.

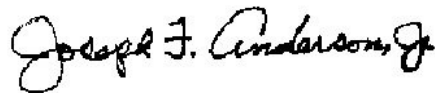
Previously, the defendant filed a motion to correct her sentence under 28 U.S.C. § 3582 pursuant to Amendment 750 of the United States Sentencing Guidelines. The undersigned denied the motion because the defendant was sentenced to a statutory mandatory minimum sentence of 120 months after her guilty plea to a drug conspiracy involving both 5 grams or more of crack cocaine and 500 grams or more of cocaine.

There is no constitutional right to counsel in § 2255 proceedings unless the court determines an evidentiary hearing is necessary. Here, the defendant does not have a pending § 2255 action before this court. Accordingly, the motion for appointment of counsel (ECF No. 1194) is denied. In addition, the court makes no speculation or determination as to whether or not the defendant is eligible for a resentencing under *Dorsey*.

The Clerk is directed to send a blank copy of § 2255 forms to the defendant should she desire to file such a motion. The defendant should take notice of the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub. L. No. 1040132, 110 Stat. 1214, which provides a one-year statute of limitations period on the filing of a § 2255 action.

IT IS SO ORDERED.

June 5, 2013
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." The signature is written in a cursive, flowing style.

Joseph F. Anderson, Jr.
United States District Judge